

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN ASSEMBLY JUNE 8, 2005

AMENDED IN ASSEMBLY JUNE 1, 2005

AMENDED IN SENATE APRIL 19, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 258

Introduced by Senator Chesbro

(Coauthors: Assembly Members Berg, Chan, Jones, and
Ridley-Thomas)

February 15, 2005

An act to ~~add Section 5338 to~~ *amend Section 4015 of* the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 258, as amended, Chesbro. ~~Mental health: client rights~~ *State hospitals: deaths: memorials.*

Existing law sets forth the powers and duties of the State Department of Mental Health, including, but not limited to, the administration of the state hospitals for the mentally disordered, ~~the licensing of psychiatric facilities, and oversight responsibilities related to the provision of local mental health services.~~ The law establishes ~~the rights of persons provided involuntary services in those facilities.~~ *Existing law requires the department, among other things, to assist the California Memorial Project in developing a plan for the restoration of gravesites and cemeteries at state hospitals and developmental*

centers and gravesites not located on state lands, but designated by the state for burial of state hospital or developmental center residents, and to develop a protocol for the future interment of patients who die while residing at a state hospital or developmental center and are unclaimed by a family member.

Existing law also requires the department to assist and cooperate with the California Memorial Project in conducting research regarding the records of deaths and burials of persons at state hospitals and developmental centers.

This bill would, notwithstanding specified provisions governing patient confidentiality, with respect to any monument or memorial erected consistent with specified provisions, authorize the department to include, if available prescribed information identifying, any person being memorialized who died while in residency at a state hospital or developmental center, and who was buried by the state. The bill would, with respect to the plan required to be developed with the California Memorial Project, also require the department to seek funding from the California Cultural and Historical Endowment, in addition to any other available resources that may be available to the department, excluding General Fund moneys, to restore, purchase, preserve, and memorialize the gravesite located at Napa State Hospital.

~~This bill would require the department to establish a working group to develop recommendations for improvements to the quality of residential care facilities providing board, care, and supervision for adults with mental illness and report to the Governor and the Legislature by February 15, 2007.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 4015 of the Welfare and Institutions*
- 2 *Code is amended to read:*
- 3 4015. (a) The State Department of Mental Health shall, in
- 4 coordination with the task force described in subdivision (c) and
- 5 with other state entities, including, but not limited to, the
- 6 Department of General Services, the State Department of
- 7 Developmental Services, the Secretary of State, and the
- 8 California State Library, do all of the following:

1 (1) Conduct and complete inventories of all of the following:

2 (A) All materials and records necessary to create the most
3 complete record of persons who died while residing at any state
4 hospital as defined in Section 7200, or any developmental center
5 as defined in Section 4440.

6 (B) Within existing resources, identify the location of all
7 gravesites at existing state hospitals and developmental center
8 lands and of gravesites not located on state lands but designated
9 by the state for burial of state hospital or developmental center
10 residents. This shall include the location of remains that may
11 have been moved from their original burial site and the location
12 of grave markers that may have been moved from gravesites.

13 (C) Within existing resources, identify the names of patients
14 whose remains were donated for medical research, the entity to
15 which the remains were donated, and the final disposition of
16 those remains.

17 (2) Assist and cooperate with the California Memorial Project
18 in conducting research regarding the records of deaths and
19 burials of persons at state hospitals and developmental centers
20 and cemeteries based on the grounds of these facilities. This
21 assistance shall, subject to paragraph (3), include the granting of
22 access to those state records as necessary to perform the
23 inventories described in this section.

24 (3) Notwithstanding Sections 4514 and 5328 or any other
25 provision of law regarding confidentiality of patient records, the
26 information described in this section shall be limited to the name,
27 date of birth, date of death, and photographic images of any
28 person who died while in residency at any state hospital or
29 developmental center and shall be made available for the
30 purposes of the implementation of this section. The exportation
31 and use of these records or photographic images from state
32 facilities shall be limited to the information delineated within,
33 and the purposes of, this section.

34 (4) Assist the California Memorial Project in developing a
35 plan for the restoration of gravesites and cemeteries at state
36 hospitals and developmental centers and gravesites not located
37 on state lands but designated by the state for burial of state
38 hospital or developmental center residents.

39 (5) *Notwithstanding Sections 4514 and 5328 or any other*
40 *provision of law governing the confidentiality of patient records,*

1 *with respect to any monument or memorial erected consistent*
2 *with this section, the department may include, if available, the*
3 *name, date of birth, and date of death, of any person being*
4 *memorialized who died while in residency at a state hospital or*
5 *developmental center and who was buried by the state.*

6 (6) Develop a protocol for the future interment of patients who
7 die while residing at a state hospital or developmental center and
8 are unclaimed by a family member.

9 (b) The department may develop a protocol to coordinate the
10 efforts of the state entities described in subdivision (a).

11 (c) (1) The department shall establish a task force to provide
12 leadership and direction in carrying out the activities described in
13 this section. The task force shall consist of representatives
14 selected by each of the following entities:

15 (A) The Peer Self-Advocacy Unit of Protection and Advocacy,
16 Inc.

17 (B) California Network of Mental Health Clients.

18 (C) Capitol People First.

19 (2) To the extent that funding is available, task force members
20 shall be reimbursed for necessary travel expenses associated with
21 serving on the task force. When requested by a task force
22 member with a disability, the state shall pay the cost of a
23 facilitator chosen by the task force member.

24 (d) In implementing this section, the state shall make no
25 structural changes to existing gravesites on state hospital or
26 developmental center lands prior to the submission of, and which
27 do not conform with, the restoration plan described in paragraph
28 (4) of subdivision (a).

29 (e) *Pursuant to the plan described in paragraph (4) of*
30 *subdivision (a), the department shall seek funding for this section*
31 *from the California Cultural and Historical Endowment, in*
32 *addition to any other resources that may be available to the*
33 *department, excluding General Fund moneys, to restore,*
34 *preserve, and memorialize the gravesite located at Napa State*
35 *Hospital.*

36 (f) The department shall submit a status update on the
37 implementation of this section, including a description of
38 barriers, if any, to conducting the activities described in this
39 section, to the Legislature by January 31, 2004.

1 ~~SECTION 1. Section 5338 is added to the Welfare and~~
2 ~~Institutions Code, to read:~~

3 ~~5338. (a) The State Department of Mental Health shall~~
4 ~~establish a working group to develop recommendations for the~~
5 ~~Governor and Legislature regarding improvements to the quality~~
6 ~~of residential care facilities providing board, care, and~~
7 ~~supervision for adults with mental illness. For purposes of this~~
8 ~~section, “residential care facilities” does not include social~~
9 ~~rehabilitation facilities as defined in paragraph (7) of subdivision~~
10 ~~(a) of Section 1502 of the Health and Safety Code. The working~~
11 ~~group shall include, but shall not be limited to, all of the~~
12 ~~following:~~

13 ~~(1) System stakeholders, including, but not limited to, mental~~
14 ~~health clients, family members, a representative from a county~~
15 ~~mental health department, a county patient rights advocate, and a~~
16 ~~residential care facility operator.~~

17 ~~(2) A representative of the Community Care Licensing~~
18 ~~Division of the State Department of Social Services.~~

19 ~~(b) By February 15, 2007, the work group shall make~~
20 ~~recommendations to the Governor and the Legislature regarding~~
21 ~~all of the following:~~

22 ~~(1) Improvements to minimum training requirements for~~
23 ~~facility operators and staff.~~

24 ~~(2) Improvements to minimal nutritional standards for food~~
25 ~~provided in facilities.~~

26 ~~(3) Improvements to facility reporting requirements.~~

27 ~~(4) Requirements for providing advocates, residents, and~~
28 ~~family members, where appropriate, access to licensing reports~~
29 ~~relative to quality of care and service provided by a facility.~~

30 ~~(5) Requirements for the posting of client rights’ and a~~
31 ~~complaint process in each facility.~~

32 ~~(6) Development of standardized agreements between a~~
33 ~~facility and a resident that describe the rights and responsibilities~~
34 ~~of residents and the operator.~~

35 ~~(7) Improvements to licensing oversight including increased~~
36 ~~and random facility visits and standardized penalty structure for~~
37 ~~licensing violations.~~

38 ~~(8) The removal of barriers to the maintenance of a stable,~~
39 ~~quality, residential care facility.~~

- 1 ~~(9) Provision of information and support services to a resident~~
2 ~~who is displaced or who desires to move to more independent~~
3 ~~housing.~~
4 ~~(10) Provision of client and family member support services~~
5 ~~within a facility, client and family member linkage services in the~~
6 ~~community, and information on client and family member~~
7 ~~support resources in the community.~~
8 ~~(11) Ways to improve the socialization skills of residents.~~
9 ~~(12) The current roles and responsibilities of the department,~~
10 ~~the State Department of Social Services, and county mental~~
11 ~~health agencies in the care and treatment of mentally ill adults in~~
12 ~~residential care facilities and recommendations for any changes~~
13 ~~in those roles and responsibilities.~~
14 ~~(13) The feasibility and desirability of a separate licensing~~
15 ~~category for community care facilities serving mentally ill~~
16 ~~persons.~~